TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 1954 - HB 1698

March 9, 2009

SUMMARY OF BILL: Authorizes any incumbent certified provider of local exchange or intra-state long distance telephone service to elect to operate pursuant to market regulation by filing notice of intent with the Tennessee Regulatory Authority (TRA). Limits TRA's jurisdiction over electing providers to authority granted under the federal 1996 Telecommunications Act, inspection fees, video franchises, underground facilities damage prevention, and Life Line or Link Up programs.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue –
$3,369,400/Tennessee Regulatory Authority

Decrease State Expenditures –
$44,800/Tennessee Regulatory Authority

Assumptions:

- According to TRA, there are 18 incumbent telephone companies in Tennessee. TRA anticipates that most companies would elect to operate pursuant to market regulation.
- While this bill provides that incumbents electing market regulation would continue to be under the jurisdiction of TRA when assessing and collecting inspection fees pursuant to Tenn. Code Ann § 65-4-303, the Authority indicates that these inspection fees are based on utility revenue for the purpose of setting intrastate rates under Title 65, Chapter 5. According to TRA, because there would no longer be any regulated utility revenue upon which to assess fees, these fees would no longer be collected.
- The recurring decrease to inspection fee revenue is estimated to be $2,283,000 per year.
- According to TRA, a portion of inspection fees are allocated to the Office of the Comptroller each year to help fund the State Assessed Properties

Division (SAPD). TRA indicates that a payment of approximately $502,000 was made to the SAPD in FY07-08.

- Pursuant to Tenn. Code Ann. § 65-21-115 and TRA Rule 1120-4-10-.01, incumbents with revenues greater than $5,000,000 would no longer be required to provide funding for the Tennessee Devices Access Program (TDAP) under this bill. The recurring decrease to TDAP revenue is estimated to be $750,000 per year.
- Pursuant to Section 271 of the federal 1996 Telecommunications Act, incumbents are required to pay self-effectuating enforcement mechanisms (SEEMS). Essentially, these are penalties for failure to meet certain performance measures. This bill does not retain TRA jurisdiction over incumbents for Section 271 of the federal 1996 Telecommunications Act. Based on FY07-08 SEEMS revenue, the recurring decrease to SEEMS revenue is estimated to be $336,400 per year.
- The total recurring decrease to state revenue is estimated to be $3,369,400 per year ($2,283,000 + $750,000 + $336,400 = $3,369,400).
- TRA indicates that incumbents would no longer be required to file tariffs, quarterly quality of service reports, or monthly or annual financial reports. As a result, TRA would no longer need the services of a part-time Utility Rate Specialist 3 position.
- Although the TRA would continue to take consumer complaints, the Authority would no longer have jurisdiction to resolve such complaints related to the incumbents. As a result, the need for a part-time Consumer Protections Specialist 2 position would be eliminated.
- The total recurring decrease to state expenditures as a result of eliminating the two part-time positions is estimated to be $44,800 per year.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director

/rnc